IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 4585 of 2005

Between:

B.Kondaiah, S/o.Balaiah, Conductor
Narayanpet Bus Depot, Mahabubnagar District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Narayanpet Bus Depot,

Mahabubnagar.
2 The Depot Manager, APSRTC, Mahabubnagar Bus Depot,

Mahabubnagar.
3 The Divisional Manager, APSRTC, Mahabubnagar Region,

Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondents in imposing the punishment of withholding of annual increment for a period of one year which shall have effect on petitioner's future increments as illegal, arbitrary, unjust and unreasonable and violative of principles of natural justice and also contrary to the judgments of this Hon'ble court and Apex court by setting aside the final order NO.P1/1(19)/93- MINR dt 30-11-1993 of the respondent No.2 herein and consequently direct the respondents to add the increments which are withholded and pass such other order or orders.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondent Nos.1 to 3: MR.V.T.M.PRASAD

The Court at the admission stage made the following:

ORDER:

Declaring the action of the 2nd respondent in imposing major penalty vide proceedings No.P1/1(19)/93-MBNR dated 30.11.1993, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Conductor in the respondent Corporation. He was charged for unauthorized absence from 23.04.1993 to 27.04.1993. He submitted his explanation. The 2nd respondent passed an order on 30.11.1993 without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of one year, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal to the 3rd respondent and the same was dismissed. Hence the writ petition.

The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increment.

It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of one year with cumulative effect, imposed by the 2nd respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of one year without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this Order, but he is entitled to get the increment on notional calculation from the date of this Order to which he is entitled.

The writ petition is, accordingly, disposed of. No costs.

Dated: 10.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager,

APSRTC, Narayanpet Bus Depot,

Mahabubnagar District

2. The Depot Manager, APSRTC,

Mahabubnagar Bus Depot,

Mahabubnagar

3. The Divisional Manager, APSRTC,

Mahabubnagar Region, Mahabubnagar

4. Two CD copies

5. 1 CC to MR.VENKATESWAR RAO

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